

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

WILLIAM W. BURGESS, JR,	)	
Register No. 526336,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 06-4106-CV-C-SOW
	)	
DAVE DORMIRE, et al.,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION**

Plaintiff, an inmate confined in a Missouri penal institution, brought this case under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and its corresponding jurisdictional statute, 28 U.S.C. § 1343. This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

On September 26, 2006, plaintiff was granted leave to proceed in forma pauperis and directed to pay an initial filing fee within thirty days. At that time, plaintiff was advised that failure to pay the initial fee could result in dismissal for failure to comply with court orders. The partial filing fee has not been received by the court.

In January 2007, mail addressed to plaintiff was returned as undeliverable. Thereafter, an order was issued directing plaintiff to provide the court with a current address. He was again advised that failure to respond could result in dismissal for failure to comply with court orders. A copy of the order was mailed to plaintiff at Jefferson City Correctional Center. It was not returned as undeliverable. Plaintiff has not responded to the court's order by providing his correct address.

Further, the record indicates plaintiff has not taken any steps to prosecute this case since his last filing on October 18, 2006. He has not responded to court orders or to defendants' motion of November 27, 2006, to dismiss. Thus, it appears he does not oppose dismissal of his case under Fed. R. Civ. P. 41(b) or on the merits, as set forth in defendants' motion of November 27, 2006.

For these reasons, it is

RECOMMENDED that plaintiff's claims be dismissed, pursuant to Fed. R. Civ. P. 41(b), for failure to comply with court orders and to prosecute, or alternately dismissed for failure to state a claim as set forth in defendants' motion. [17]

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation will result in a waiver of the right to appeal. See L.R. 74.1(a)(2).

Dated this 22<sup>nd</sup> day of March, 2007, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX  
United States Magistrate Judge